

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

TOWN OF FRAMINGHAM REQUEST FOR)	
DETERMINATION OF RATES APPLICABLE TO)	
TRANSPORTATION AND TREATMENT OF SEWAGE)	D.T.E. 02-46
PURSUANT TO INTERMUNICIPAL AGREEMENT)	
)	

TESTIMONY OF PETER A. SELLERS
ON BEHALF OF THE TOWN OF FRAMINGHAM

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1 Q: Please state your name for the record.

2 A: Peter A. Sellers.

3 Q: What is your residential address?

4 A: 58 Winter Park Road, Framingham, Massachusetts.

5 Q: Your date of birth?

6 A: March 17, 1954.

7 Q: Are you an employee of the Town of Framingham?

8 A: Yes, I am.

9 Q: What is your position with Framingham?

10 A: I am the Director of Public Works.

11 Q: How long have you held that position?

12 A: Since February 4, 2002.

13 Q: On whose behalf are you offering testimony?

14 A: On behalf of the Town of Framingham.

15 Q: Thank you. Please state your employment history through
16 the date you became Director of Public Works for the Town of
17 Framingham.

18 A: From 1995 to 2002, I was the Director of Highways for the
19 Department of Public Works of the City of Brookline,
20 Massachusetts. From 1987 to 1995, I was the Director of
21 Transportation for the Boston Police Department. From 1980 to
22 1987, I was the Assistant Superintendent for Highways for the

1 Department of Public Works of the Town of Wellesley,
2 Massachusetts.

3 **Q: As Director of Public Works for the Town of Framingham,**
4 **what are your principal job functions?**

5 A: I am responsible for overseeing the operation of the
6 Department of Public Works in Framingham. The Department is
7 subdivided into various departments, including the Water and
8 Sewer Department. I report to the Town Manager, who reports to
9 the Board of Selectmen. The Superintendent of the Water and
10 Sewer Department, Robert Angelo, reports directly to me.

11 **Q: What responsibilities do you have vis-à-vis Framingham's**
12 **wastewater collection system?**

13 A: I am responsible for the operation and maintenance of the
14 wastewater collection system, and for making recommendations to
15 the Town Manager and the Board of Selectmen regarding necessary
16 capital repairs and improvements to the system.

17 **Q: In your capacity as Director of Public Works, have you had**
18 **the opportunity to review a report prepared by SEA Consultants,**
19 **Inc., titled "Sewer Rate Assessment Study," a copy of which has**
20 **been marked as Exhibit FR-2?**

21 A: I have reviewed that report, and I am familiar with the
22 recommendations contained in the report.

23 **Q: Did you play any part in commissioning that report?**

1 A: No. The report already had been issued at the time I
2 became employed by the Town of Framingham.

3 Q: Do you have any knowledge regarding the terms of any
4 agreements between Framingham and the Town of Ashland regarding
5 Framingham's transportation of Ashland's wastewater to the FES?

6 A: I have reviewed an Intermunicipal Agreement between the
7 parties dated December 9, 1963. I played no part in negotiating
8 the terms of that agreement, and have no knowledge regarding the
9 parties' intent in including any of the provisions in the
10 agreement.

11 Q: Mr. Sellers, do you recognize the document attached to
12 Framingham's Petition in this matter as a true and correct copy
13 of the December 9, 1963 Intermunicipal Agreement, as maintained
14 in Framingham's town offices?

15 A: Yes.

16 Q: Framingham moves to have the December 9, 1963
17 Intermunicipal Agreement between Framingham and Ashland admitted
18 as Exhibit FR-14.

19 Mr. Sellers, how does Framingham calculate the charges to
20 be paid by direct users of its wastewater collection system?

21 A: Framingham's water and sewer charges are based upon metered
22 usage. A three-tiered rate structure is in effect. Customers
23 who use 0 to 156 HCF (Hundred Cubic Feet) of water each year are
24 billed at a rate of \$3.04 per HCF. Customers who use 157 to

1 3,000 HCF per year are billed at a rate of \$4.88 per HCF.
2 Customers who use more than 3,000 HCF per year are billed at a
3 rate of \$6.55 per HCF. In addition, any customers who are
4 linked directly to the system, but reside outside of Framingham,
5 are assigned an out-of-town surcharge of \$2.50 per HCF.

6 **Q: Is any customer of Framingham's system charged on the basis**
7 **of the length of sewer pipe utilized by that particular**
8 **customer?**

9 A: No.

10 **Q: Are the revenues collected from direct customers of**
11 **Framingham's system utilized, in part, to pay the expenses of**
12 **operating and maintaining the wastewater collection system?**

13 A: Yes.

14 **Q: In billing direct customers of its system, does Framingham**
15 **bill each customer only for the maintenance and operation**
16 **performed on that particular part of the sewer system utilized**
17 **by that customer?**

18 A: No.

19 **Q: Why not?**

20 A: Trying to allocate actual O&M expenses among all of
21 Framingham's sewer customers would be a logistical and
22 administrative impossibility. I know of no other municipality
23 that bills its customers in that fashion.

1 Q: Mr. Sellers, do you have an understanding as to what it
2 means to be, or to have, a "wholesale" customer?

3 A: Yes, I think so. A "wholesale" customer is a customer that
4 buys a good in bulk, usually for re-sale to others, and obtains
5 a discounted price on the good because it is being bought in
6 bulk.

7 Q: Does Framingham have any "wholesale" customers of its
8 wastewater collection system?

9 A: No. Framingham does not "sell" wastewater, and its
10 customers do not "buy" wastewater. Framingham is not a for-
11 profit business, and it did not set up its sewer system to serve
12 members of the general public. Instead, Framingham is providing
13 a municipal service - the collection, treatment, and
14 transportation of wastewater - for the good of its residents.

15 Furthermore, each Framingham customer is charged at the
16 same rate as every other customer in its class, and those who
17 "buy" the greatest amount of wastewater are charged at a higher
18 price than those who "buy" less water. This seems to be the
19 converse of the usual wholesale situation.

20 Even if Framingham were in the business of "selling"
21 wastewater, Framingham's wastewater collection system is not
22 configured in a way that would permit Framingham to bill
23 customers on a "wholesale" basis. As I understand it, a company
24 that sells goods on a wholesale basis sets the price for those

1 goods by starting with the cost of the good, then adding on all
2 costs incurred with the manufacture and delivery of the good,
3 then adding on an appropriate rate of return, or "profit."
4 Here, Framingham does not track the per unit cost of "selling"
5 each gallon of wastewater, nor does Framingham seek to recover
6 from its customers any return or "profit" on the costs incurred
7 by Framingham in operating and maintaining its wastewater
8 collection system.

9 Moreover, Ashland pays a separate fee to the MWRA for the
10 transportation and treatment of its wastewater. If Framingham
11 were providing sewer services to Ashland on a "wholesale" basis,
12 I presume that Framingham would be making all payments due to
13 the MWRA for the total flow discharged at the FES, and passing
14 on to Ashland any costs directly related to Ashland's sewage,
15 along with an appropriate markup. This obviously is not the
16 case.

17 **Q: Is Ashland a "wholesale" customer of Framingham's?**

18 A: No. Framingham has never attempted to calculate the "per
19 unit" cost to Framingham of transporting each gallon of
20 Ashland's wastewater, and certainly has never attempted to
21 assess to Ashland an appropriate rate of return on Framingham's
22 enormous investment in its wastewater collection system.

1 **Q: Mr. Sellers, in each of the last five years, how much money**
2 **has Ashland paid Framingham for the transportation of its**
3 **wastewater to the FES?**

4 A: It is my understanding Ashland has paid \$5,500 for this
5 privilege in each of the last five years.

6 **Q: In your opinion, has this payment fairly compensated**
7 **Framingham for the costs incurred by Framingham in transporting**
8 **this wastewater?**

9 A: No. Framingham's operations and maintenance expenses
10 related to the sewer system over that same five-year time period
11 have averaged \$2,011,544. Ashland's annual payment of \$5,500 is
12 only 0.27% of that average annual amount. Over the same time
13 period, however, SEA's report indicates that Ashland's
14 discharges have averaged about 10% of the total flow through
15 Framingham's system. In my opinion, that is a huge discrepancy.

16 **Q: In reliance on SEA's report, has Framingham issued bills to**
17 **Ashland seeking to have Ashland pay a greater share of**
18 **Framingham's operations and maintenance expenses?**

19 A: Yes. On June 29, 2001, Framingham issued a bill to Ashland
20 in the amount of \$101,500, covering the period from January 1,
21 2001 to June 30, 2001. On December 12, 2001, Framingham issued
22 a bill to Ashland in the amount of \$101,500, covering the period
23 from July 1, 2001 to December 31, 2001. On June 12, 2002,
24 Framingham issued a bill to Ashland in the amount of \$101,500,

1 covering the period from January 1, 2002 to June 30, 2002. On
2 December 17, 2002, Framingham issued a bill to Ashland in the
3 amount of \$101,500, covering the period from July 1, 2002 to
4 December 31, 2002. The Town's records reflect that Ashland has
5 paid only \$11,000 towards these four invoices.

6 **Q: Framingham moves to admit copies of these four invoices as**
7 **Exhibit FR-15.**

8 **Mr. Sellers, has Framingham realized any benefit from the**
9 **transportation of Ashland's wastewater through its system?**

10 A: In my opinion, no. Framingham currently is providing this
11 service to Ashland at a significant loss, to the detriment of
12 Framingham's own residents.

13 **Q: Does this conclude your testimony?**

14 A: Yes.

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